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HOUSE BILL 839

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Nick L. Salazar

AN ACT

RELATING TO CRIMES; AMENDING THE RESIDENT ABUSE AND NEGLECT ACT
TO PROHIBIT ABUSE OF INDIVIDUALS IN RESIDENTS' OR CARE
PROVIDERS' HOMES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-47-3 NMSA 1978 (being Laws 1990,
Chapter 55, Section 3) is amended to read:

"30-47-3. DEFINITIONS.--As used in the Resident Abuse and
Neglect Act:

A. "abuse" means any act or failure to act
performed intentionally, knowingly or recklessly that causes or
is likely to cause harm to a resident, including:

(1) physical contact that harms or is likely
to harm a resident of a care facility;

(2) inappropriate use of a physical restraint,

underscored material = new
[bracketed material] = delete

1 isolation or medication that harms or is likely to harm a
2 resident;

3 (3) inappropriate use of a physical or
4 chemical restraint, medication or isolation as punishment or in
5 conflict with a physician's order;

6 (4) medically inappropriate conduct that
7 causes or is likely to cause physical harm to a resident;

8 (5) medically inappropriate conduct that
9 causes or is likely to cause great psychological harm to a
10 resident; and

11 (6) an unlawful act, a threat or menacing
12 conduct directed toward a resident that results and might
13 reasonably be expected to result in fear or emotional or mental
14 distress to a resident;

15 B. "care facility" means a hospital; skilled
16 nursing facility; intermediate care facility; care facility for
17 the mentally retarded; psychiatric facility; rehabilitation
18 facility; kidney disease treatment center; home health agency;
19 ambulatory surgical or out-patient facility; home for the aged
20 or disabled; group home; adult foster care home; private
21 residence that provides personal care, sheltered care or
22 nursing care for one or more persons; a resident's or care
23 provider's home in which personal care, sheltered care or
24 nursing care is provided; adult day care center; boarding home;
25 adult residential shelter care home; and any other health or

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1 resident care related facility or home, but does not include a
2 care facility located at or performing services for any
3 correctional facility;

4 C. "department" means the human services department
5 or its successor, contractor, employee or designee;

6 D. "great psychological harm" means psychological
7 harm that causes mental or emotional incapacitation for a
8 prolonged period of time or that causes extreme behavioral
9 change or severe physical symptoms that require psychological
10 or psychiatric care;

11 E. "great physical harm" means physical harm of a
12 type that causes physical loss of a bodily member or organ or
13 functional loss of a bodily member or organ for a prolonged
14 period of time;

15 F. "neglect" means, subject to the resident's right
16 to refuse treatment and subject to the caregiver's right to
17 exercise sound medical discretion, the grossly negligent:

18 (1) failure to provide any treatment, service,
19 care, medication or item that is necessary to maintain the
20 health or safety of a resident;

21 (2) failure to take any reasonable precaution
22 that is necessary to prevent damage to the health or safety of
23 a resident; or

24 (3) failure to carry out a duty to supervise
25 properly or control the provision of any treatment, care, good,

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underscored material = new
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1 service or medication necessary to maintain the health or
2 safety of a resident;

3 G. "person" means any individual, corporation,
4 partnership, unincorporated association or other governmental
5 or business entity;

6 H. "physical harm" means an injury to the body that
7 causes substantial pain or incapacitation; and

8 I. "resident" means any person who resides in a
9 care facility or who receives treatment from a care facility."

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